

A.C. Contract No. 81-632

**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**THE STATE OF ARIZONA**

**AND**

**THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY**

Agreement No. \_\_\_\_\_

**PARTIES**

**THIS AGREEMENT**, entered into this 9th day of February, 1982, pursuant to Arizona Revised Statutes, Section 11-951 through 11-954, as amended, by and between the **STATE OF ARIZONA**, acting by and through the **ARIZONA DEPARTMENT OF TRANSPORTATION**, hereinafter called "**STATE**", and the **FLOOD CONTROL DISTRICT OF MARICOPA COUNTY**, a municipal corporation and a political subdivision of the State of Arizona, hereinafter called "**DISTRICT**".

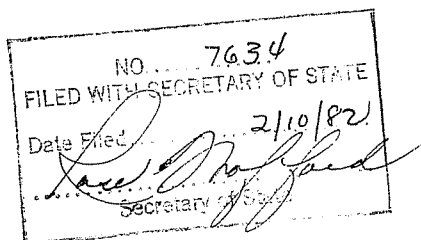
**STATUTORY AUTHORIZATION**

**WHEREAS**, **STATE** is empowered by A.R.S. Sections 28-108, 28-112 and 28-114 to enter into this Agreement, and to grant right-of-way in, under, along or across State highway right-of-way for flood control purposes, and the Director of the **ARIZONA DEPARTMENT OF TRANSPORTATION** has delegated to the undersigned his authorization to execute this Agreement on behalf of **STATE**: and

**WHEREAS**, **DISTRICT** is empowered by A.R.S. Section 45-2358 and 45-2360 to enter into this Agreement, and acting by and through its governing body, has by that certain resolution attached hereto and incorporated herein as Exhibit "A" resolved to enter into this Agreement and has authorized the undersigned as its representative to execute the same on behalf of **DISTRICT**: and

**PURPOSE**

**WHEREAS**, **DISTRICT'S** flood control channel, when built, will cross **STATE'S** right-of-way for I-10, Project I-10-2(81) Burnt Well-Tonopah Section in a portion of Section 7, Township 2 North, Range 8 West, Gila and Salt River Base and Meridian, Maricopa County, Arizona, as described in Exhibit "B".



WHEREAS, both parties wish to establish adequate right-of-way for **DISTRICT'S** channel across Interstate Highway 10, Project I-10-2(81) to clarify their respective responsibilities regarding operation and maintenance and liability at the crossings.

#### METHOD

THEREFORE, the parties hereby covenant and agree as follows:

#### **STATE SHALL:**

1. Grant and does hereby grant to **DISTRICT** its successors and assigns an "EASEMENT FOR FLOOD CONTROL PURPOSES", to construct, operate and maintain said flood control channel, over the land described in Exhibit "B", attached hereto.

2. Be responsible only for the maintenance of the land area lying between Station 110+26.67 and Station 113+11.87 as described in Exhibit "B", attached hereto, including the triple box culverts, wingwalls, appurtenances thereto and the highway drainage from within state right-of-way.

3. In the event the highway were relocated and no longer a public thoroughfare, neither require removal nor remove the triple box culverts, nor wingwalls nor appurtenances:

4. Indemnify and save **DISTRICT** harmless from all liability however arising to any and all persons, whether for personal injuries or otherwise and from any claim of any person of damage to or loss of property by reason of **STATE'S** development, use and maintenance of the aforementioned Interstate Highway 10, Project I-10-2(81) or by reason of anything done or permitted to be done by **STATE** in and about the area of said highway right-of-way, except as it relates to the subject matter of this agreement. In the event that both parties are negligent, each shall have the right of contribution against the other.

#### **DISTRICT SHALL:**

1. Be responsible for the operation and maintenance of the flood control channel within the highway right-of-way, lying northerly of Station 110+26.67 to Station 107+31.81, lying between Station 112+25.87 and Station 111+12.67 and lying southerly of Station 113+11.87 to Station 114+20.77.

2. Indemnify and save **STATE** harmless from all liability however arising to

any and all persons, whether for personal injuries or otherwise and from any claim of any person of damage to or loss of property by reason of development, use and maintenance of the aforementioned flood control channel or by reason of anything done or permitted to be done or omitted from being done by **DISTRICT** in and about the area of said highway right-of-way.

#### **MANNER OF FINANCING**

1. It shall be the duty of the **STATE** and the **DISTRICT** to maintain their respective facilities in such a manner as to be deemed safe and to repair and replace their respective facilities, at their own expense as the necessity arises consistent with customary management practices. All such work shall be done without interference with the operation of the works of the other.

2. All work done by the **DISTRICT** in maintaining or replacing its facilities shall be done in a good and workmanlike manner. In the event that the **DISTRICT** shall fail, refuse, or neglect to maintain its facilities as in this article provided, the **STATE** may, after thirty (30) days' written notice, replace, reconstruct, repair or change any of said facilities, forming a part of the channel, in such manner as it shall determine: Provided, however, that in the event of an emergency, the **STATE** may, with the oral and/or written assent of the **DISTRICT**, perform necessary emergency maintenance work required to protect said facilities, at the expense of the **DISTRICT** who has the obligation to pay for said work, and the **DISTRICT** whose facilities have been replaced, reconstructed, repaired or changed shall reimburse the **STATE** for the entire cost and expense thereof within ninety (90) days after submission of a written statement or statements showing in detail the items of expense included in the cost of the same.

#### **FILING WITH SECRETARY OF STATE**


This Agreement shall become effective on the date it is filed with the Secretary of State.

All parties are hereby put on notice that this Agreement is subject to cancellation by the Governor, pursuant to A.R.S. Section 38-511.

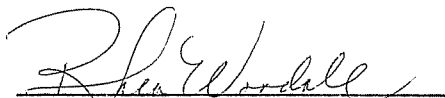
Attached to this Agreement and incorporated herein by reference is Exhibit "C" which is the written determination of General Counsel for **DISTRICT** that **DISTRICT**

is authorized under the laws of this State to enter into this Agreement and that it is in proper form.

**FLOOD CONTROL DISTRICT  
OF MARICOPA COUNTY**

By   
Chairman, Board of Directors

**ATTEST:**

  
Clerk of the Board

**STATE OF ARIZONA  
ARIZONA DEPARTMENT OF  
TRANSPORTATION**

By   
Chief Deputy State Engineer

**RECOMMENDED FOR APPROVAL:**


  
Chief Engineer and General Manager  
Flood Control District of Maricopa  
County

EXHIBIT "B"  
HARAQUAHALA FLOODWAY  
CONSTRUCTION EASEMENT  
ACROSS HIGHWAY I-10

A portion of the Northeast quarter of the Southwest quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ ) and the Southeast quarter of the Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ ) of Section Seven (7), Township Two (2) North, Range Eight (8) West, Gila and Salt River Base and Meridian, Maricopa County, Arizona, being that portion of the right-of-way for Interstate Highway 10, including drainage easements, as shown on Arizona Department of Transportation (ADOT) right-of-way plans No.: 1-10-2(9)81, Burnt Well-Tonopah Section, Sheet 9 of 37, lying within a strip of land 200 feet wide for the Harquahala Floodway (HF); the centerline of which passes through ADOT Engineer's Station 4388+92.67; said HF centerline is located and described as follows: Beginning at the West quarter (W $\frac{1}{4}$ ) corner of said section; thence north 00°01'53" East 495.67 feet along the West section line to the median centerline of said Highway I-10; thence along said median centerline South 74°50'42" East 1680.21 feet to said Engineer's Station 4388+92.67 and the True Point of Beginning; thence along said HF centerline South 15°09'18" West 300.00 feet to the Southerly endpoint of said centerline; thence again from said True Point of Beginning North 15°09'18" East 142.60 feet; thence North 45°38'55" East 400.00 feet to the Northerly endpoint of said centerline. Containing 132,808 square feet or 3.05 acres more or less.

EXHIBIT "C"

FLOOD CONTROL DISTRICT OF MARICOPA COUNTY  
GENERAL COUNSEL  
INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

The Flood Control District of Maricopa County Agreement No. \_\_\_\_\_ which is an agreement between public agencies has been reviewed pursuant to A.R.S. 11-952, as amended, by the undersigned General Counsel who has determined that it is in proper form and is within the powers and authority granted to the Flood Control District of Maricopa County under the laws of the State of Arizona.


Dated this 8<sup>th</sup> day of June, 1981

LARRY J. RICHMOND  
General Counsel

By 

RESOLUTION

Be it resolved on this date, February 9, 1982 I,  
W. A. ORDWAY, the below undersigned Director, Department of Transportation,  
have determined that it is to be to the advantage of the State of Arizona  
that the Department of Transportation, acting by and through the Highways  
Division, and the Flood Control District of Maricopa County, enter into an  
Intergovernmental Agreement for the purpose of granting right-of-way in,  
under, along or across State highway right-of-way for flood control purposes.

  
\_\_\_\_\_  
W. A. ORDWAY, Director  
Arizona Department of Transportation

RESOLUTION (NO. FCD 81-8)

AUTHORIZATION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA CONCERNING CONSTRUCTION, OPERATION AND MAINTENANCE OF THE HARQUAHALA VALLEY WPP


The Board of Directors of the Flood Control District of Maricopa County convened in the Auditorium at 205 West Jefferson Street, Phoenix, Arizona on SEP 8 1981, 1981, with a quorum present, and in accordance with the recommendation of the Chief Engineer and General Manager, adopted the following resolution on motion made by Mr. \_\_\_\_\_.

WHEREAS, the construction of the HARQUAHALA FLOODWAY in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 7, T2N, R8W, G&SRB&M, Maricopa County, Arizona will require the floodway to cross the Interstate Highway 10, and

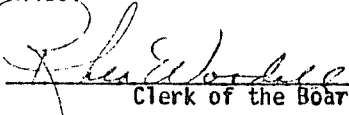
WHEREAS, it is necessary that the State of Arizona and the Flood Control District enter into an Intergovernmental Agreement relative to the construction, operation and maintenance of the flood control channel at the specified location.

NOW, THEREFORE, BE IT RESOLVED that the Chairman and the Clerk of the Board are authorized and directed to execute an Intergovernmental Agreement that grants the Flood Control District an easement to construct, operate and maintain the HARQUAHALA FLOODWAY where it intersects Interstate Highway 10 and which states the responsibilities and liabilities of both the State and the District regarding the operation and maintenance of the box culverts and channel.


Dated this 8 day of September, 1981

  
Chairman, Board of Directors  
Flood Control District of Maricopa County

ATTEST

  
Clerk of the Board

RECOMMENDED BY:

  
Chief Engineer and General Manager  
Flood Control District  
of Maricopa County





OFFICE OF THE  
Attorney General

1801 WEST JEFFERSON STREET  
FOURTH FLOOR  
PHOENIX, ARIZONA 85007

ROBERT K. CORBIN  
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 82-7, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 27<sup>th</sup> day of January, 1982.

ROBERT K. CORBIN  
Attorney General

*Albert Meyer*  
Assistant Attorney General  
Transportation Division